

REMARKS

Claims 1 and 21-37 were pending in the present application. No claims have been amended or cancelled by virtue of this amendment. Amendment and cancellation of certain claims in prior actions is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. The specification has been amended to update the "Cross Reference to Related Applications" and, as such, does not constitute new matter. No new matter is believed to have been added.

Applicants expressly reserve the right to pursue any unclaimed subject matter in one or more continuation or divisional applications.

Rejections under U.S.C §112

Claims 24 and 25 are rejected under 35 U.S.C. 112, first paragraph as allegedly failing to comply with the written description requirement. The Applicants respectfully traverse this rejection.

In response, the Applicants note that the antecedent basis for the term "Echinocandin-type compound" in claim 24 is derived from claim 21, from which it depends, which recites "wherein said *cyclic peptide compound* is an Echinocandin-type compound." (Emphasis added). The antecedent basis for the term "cyclic peptide compound" is derived from claim 1. Claim 1 contains terms referring to the starting material ("cyclic peptide compound") *and* the product ("*modified* cyclic peptide compound"; emphasis added) of the claimed processes. The Applicants assert that they have consistently referred to the starting material as "cyclic peptide compound" and the product of the claimed processes as "*modified* cyclic peptide compound." Claim 24 clearly and distinctly recites "cyclic peptide compound" and is therefore referring to the starting material of the processes.

As noted by the Examiner on page 2 of the Office Action dated November 22, 2004, ". . . natural Echinocandin-type compounds are originally disclosed as starting materials for the

modification process” Thus, it appears that the Examiner has mistakenly read claims 24 and 25 to be directed to species of product (“*modified* cyclic peptide compound”) rather than to species of starting materials (“cyclic peptide compound”) as recited in the rejected claims (note, claim 25 is dependent on claim 24, and recites “wherein said Echinocandin-type compound is a natural product” and thus ultimately depends through claim 24 on claim 1). In view of the Examiner’s comments on page 2 of the Office Action, it appears that the Examiner and the Applicants are in agreement that “Echinocandin-type compounds” (and therefore Echinocandin-type compounds that are natural products) are disclosed, and can be recited, as starting materials of the claimed processes.

In view of the above remarks the Applicants respectfully request withdrawal of the rejection of claims 24 and 25 under 35 U.S.C. 112, first paragraph.

Obviousness-type Double Patenting

Claims 1, 21-23, and 26-37 are rejected under the judicially created doctrine of obviousness-type double patenting as being allegedly unpatentable over claims 1-20 of U.S. Patent No. 6,653,281. Applicants respectfully traverse the rejection.

While not acquiescing to the Examiner’s statements regarding the above-listed rejection of claims 1, 21-23, and 26-37, as noted above, a terminal disclaimer is filed herewith with respect to U.S. Patent No. 6,653,281, thereby rendering the rejection moot. Accordingly, the Applicant respectfully requests withdrawal of the rejection.


CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. **342312001701**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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